Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

AEROTEL, LTD.; AEROTEL U.S.A., INC.; and AEROTEL U.S.A., LLC, Plaintiffs, v. T-MOBILE USA, INC., Defendant.	Case No. C07-1957JLR COMBINED JOINT STATUS REPORT AND DISCOVERY PLAN

The parties to the above-identified action jointly submit this Case Management Statement and Proposed Order and request that the Court adopt it as its Case Management Order in this case:

1. **Description Of The Case:** Plaintiff Aerotel, Ltd., Aerotel U.S.A., Inc. and Aerotel U.S.A., LLC (collectively, "Aerotel") bring this action against T-Mobile USA, Inc. ("T-Mobile") to enforce rights in U.S. Patent No. 4,706,275 ("the '275 patent"), asserting claims of patent infringement in violation of 35 U.S.C. § 271(a), (b) and (c). The '275 Patent, entitled "Telephone System," issued on November 10, 1987 to Zvi Kamil and is directed to methods and systems for making prepaid telephone calls. The '275 Patent expired on November 13, 2005.

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Aerotel asserts claims against T-Mobile for infringement of the '275 Patent arising from its marketing, within this Judicial District and elsewhere, of products and services related to prepaid telephone calling cards which allegedly are covered by one or more claims of the '275 Patent. More specifically, the allegedly infringing products and services include prepaid wireless telecommunications products (e.g., prepaid wireless setup and refill cards) and services (e.g., prepaid telephone service using a wireless telephone) including, but not limited to, products marketed by T-Mobile under the brand names "T-Mobile To Go" and "T-Mobile EasySpeak".

The stipulated deadline for T-Mobile to Answer or otherwise respond to the Complaint in this matter is February 11, 2008. T-Mobile disputes, *inter alia*, that any of T-Mobile's past or present products or services infringe any valid and enforceable claim of the '275 patent. T-Mobile further asserts that Aerotel's claims may be barred, in whole or in part, by the applicable statute of limitations and by the equitable doctrines of estoppel, acquiescence and laches. T-Mobile reserves the right to assert additional defenses and/or affirmative defenses.

2. **The parties select the following ADR process:** Mediation.

3. **The date for commencement of ADR process:** The parties agree that mediation should take place by June 19, 2008.

4. **Deadline for joining additional parties:** April 30, 2008

5. **The parties agree to the following discovery plan:**

A. Date of FRCP 26(f) conference: February 4, 2008; initial disclosures will be exchanged on or before February 19, 2008.

B. Subjects of Discovery:

(i) The '275 patent, including its validity, enforceability and alleged infringement by T-Mobile;

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(ii) T-Mobile's marketing and provision of prepaid wireless telecommunication products and services, including technical aspects of hardware and software used by T-Mobile and/or third-party vendors contracted by T-Mobile to provide such products and services; and

(iii) T-Mobile's sales, marketing and financial information (e.g., sales revenues and profits) relating to the allegedly infringing products and services for the determination of damages.

C. The parties agree to the following schedule to govern fact and expert discovery:

Event	**Date**
(i) Fact discovery completed	September 30, 2008
(ii) Opening expert reports (based on burden of proof)	30 days after *Markman* decision
(iii) Rebuttal expert reports	30 days thereafter
(iv) Complete expert discovery	90 days after *Markman* decision

D. Management of Discovery: The parties agree to exchange documents in electronic form when available. The parties agree that service by electronic means shall be allowed as set forth in Fed. R. Civ. P. 5(b)(2)(E) and that such service shall be complete upon transmission, provided that the sender does not receive any indication that such electronic transmission was unsuccessful. Where electronic service is not practicable, the parties agree that service will be accomplished via overnight delivery.

E. Additional Orders: The parties submit herewith a proposed Stipulated Protective Order pursuant to FRCP 26(c) for entry by the Court.

F. *Markman* Hearing: In accordance with Court's Standing Order for Patent

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Cases, the parties agree to the following deadlines relating to a Claim Construction Hearing ("*Markman* Hearing"):

Event	**Date**
(i) Preliminary Infringement Contentions & Disclosure of Asserted Claims	February 25, 2008
(ii) Disclosure of Preliminary Invalidity Contentions	March 17, 2008
(iii) Expert Witness Reports on *Markman* issues (if necessary)	April 14, 2008
(iv) Rebuttal Expert Witness Report on *Markman* Hearings (if necessary)	May 14, 2008
(v) Preliminary Claim Chart	May 27, 2008
(vi) Joint Claim Chart and Prehearing Statement	June 26, 2008
(vii) Opening *Markman* Briefs (24 pages per side)	July 10, 2008
(viii) Response *Markman* Briefs (24 pages per side)	July 24, 2008
(ix) *Markman* Hearing	August 19, 2008

6. **Discovery Completion Date**: 90 days after *Markman* decision

7. **Assignment to Magistrate**: The parties do not consent to the assignment of this case to a U.S. Magistrate Judge for trial.

8. **Bifurcation**: The parties agree that the case should be tried without bifurcation.

9. **Pre-Trial Order**: The parties agree that pretrial statements and a pretrial order should be submitted in accordance with the Local Rules.

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10. **Suggestions for shortening or simplifying the case**: None known at this time.

11. **Trial Ready Date**: March 31, 2009

12. **Jury Trial.** The parties request a trial by jury.

13. **Number of Trial Days**: The parties expect that the trial will last for four (4) to five court (5) days.

14. **Trial Counsel**:

For Aerotel:

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DATED: February 6, 2008

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

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Attorneys for T-Mobile USA, Inc.

CASE MANAGEMENT ORDER

The Combined Joint Status and Discovery Plan is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition the Court orders:

SO ORDERED this _______ day of ______________, 2008

____
James L. Robart
United States District Judge

Presented by:

TOWNSEND AND TOWNSEND AND CREW LLP

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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2008, I caused the foregoing Combined Joint Status and Discovery Plan to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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